

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)Applicant's or agent's file reference
see form PCT/ISA/220FOR FURTHER ACTION
See paragraph 2 belowInternational application No.
PCT/GB2004/005168International filing date (day/month/year)
09.12.2004Priority date (day/month/year)
12.12.2003International Patent Classification (IPC) or both national classification and IPC
A61B17/17, A61F2/46Applicant
CHANA, Gursharan Singh

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
☐ Box No. II Priority
☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐ Box No. IV Lack of unity of invention
☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐ Box No. VI Certain documents cited
☐ Box No. VII Certain defects in the international application
☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

12.10.05



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/GB2004/005168**Box No. 1 Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/GB2004/005168**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 44-52

because:

- ☒ the said international application, or the said claims Nos. 44-52 relate to the following subject matter which does not require an international preliminary examination (*specify*):

see separate sheet

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 44-52
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- | | |
|----------------------------|--|
| the written form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|--------------|
| Novelty (N) | Yes: Claims | 2-43 |
| | No: Claims | 1,53-58 |
| Inventive step (IS) | Yes: Claims | 2-4 |
| | No: Claims | 1,5-43,53-58 |
| Industrial applicability (IA) | Yes: Claims | 1-43,53-58 |
| | No: Claims | |

2. Citations and explanations**see separate sheet**

**WRITTEN OPINION OF THE
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Re Item III.

The claims 44 - 52 concern a method for treatment of the human body (surgery). However, according to Rule 67.1(iv) PCT, an International Preliminary Examining Authority is not required to carry out international preliminary examination based on such method claim.

Re Item V.

Reference is made to the following document:

D1: GB-A-588 559
D2: FR-A-2 684 287
D3: WO-A-01/91648
D4: WO-A-03/077807

1. The document D1 discloses (the references in parentheses applying to this document):

A targeting device to allow the position of the centreline of the femoral neck to be located which device comprises at least a first component having a portion suitable for location on an outer surface of the femoral neck and a second component having a portion suitable for marking the centreline of the femoral neck, wherein the first and second components are spaced apart from and parallel to one another and means is provided to alter the distance between the first and second components (Fig. 1, 19, 39) and means is provided to maintain the first and second components in a predetermined position relative to each other (Fig. 1, 11, 35).

Document D1 discloses all features of the subject-matter of independent claim 1. Thus, the subject-matter defined therein does not fulfill the requirements of Article 33(2) PCT.

2. Document D1 discloses also all features defined in claims 53 - 58 (see D1, Figures). Thus, claims 53 - 58 are not novel.

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3. The dependent claims 2 - 4 define portions for receipt of a guide wire. The problem to be solved is to mark the centerline of the femoral neck. None of the available prior art does disclose such subject-matter. Therefore, claims 2 - 4 are considered to be novel and inventive.

4. Claims 5 - 43 merely define features which are slight constructional changes which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claims 5 - 43 lack an inventive step.